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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,626	11/17/2000	Wolfgang Hultsch	0112740-113	8129
29177 7590 09/27/2007 BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER DUONG, DUC T	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 09/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/700,626	HULTSCH, WOLFGANG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Duc T. Duong	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14 and 18 is/are rejected.
- 7) ☒ Claim(s) 19-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☒ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 14, 15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gorsuch (US Patent 6,151,332).

Regarding to claims 14 and 17, Gorsuch discloses an apparatus 100 for real-time transmission of compressed data (fig. 1 col. 4 lines 61-67), comprising a receiving unit 120 (fig. 1 col. 3 lines 62-64) for receiving both useful data and filling data (fig. 3 col. 5 lines 56-62; noted the useful data is located in field 312 and the filling data is located in field 311 and 313) which arrive as a data stream with a constant data rate via a circuit-switched connection of a first communications network (fig. 1 col. 3 lines 31-46; noted ISDN is a circuit switched network having a constant rate transmission); a control unit

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422 for removing the filling data contained in the data stream with the constant data rate and for reformatting the useful data contained in the data stream into a format compatible with a data stream with a variable data rate via a packet-oriented connection 428 by embedding the useful data into the transmission format of the packet oriented connection (fig. 4 col. 6 lines 32-40; noted the filling data in field 311 and 313 is removed, and only the useful data in field 312 is transmitted), wherein said variable data rate corresponds to a variable transmission bandwidth available for the connection (col. 6 lines 62-67 and col. 7 lines 1-2; noted the radio channels corresponds to a transmission bandwidth supporting a variable rate that's allocated to user only upon demand); and a sending unit 140 (fig. 1 col. 4 lines 10-14) for sending the reformatted useful data as a data stream with a variable data rate via a packet-oriented connection of a second communications network (fig. 1 col. 4 lines 14-18; noted the base station is a packet-oriented connection of a mobile communications network).

Regarding to claim 15, Gorsuch discloses the apparatus is connected between a line-connected communications network and a mobile communications network (fig. 1 col. 3 lines 8-15).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorsuch.

Regarding to claims 16 and 18, Gorsuch discloses all the limitations with respect to claims 14 and 17, except for the useful data is compressed video data. However, to arrange for the transmission of compressed data with useful data as compressed video data would have been obvious to a person of ordinary skill in the art since such transmission of video data is well known in the art.

#### ***Response to Arguments***

5. Applicant's arguments filed July 17, 2007 have been fully considered but they are not persuasive. Regarding to applicant's argument of pages 5-7, Gorsuch fails to teach for "a data stream with a variable rate" since the radio channel 160 in Gorsuch is set at a constant rate. In response, the examiner would like to direct applicant's attention to col. 4 lines 31-42. Herein, Gorsuch discloses for supporting higher speed data services the radio channels 160 must be greater in number or have a greater bandwidth.

Therefore, the radio channels 160 may be set at a constant rate of 8 kbps to support an ISDN rate of 56 kbps or 128 kbps (col. 6 lines 62-col. 7 lines 11), the radio channels 160 will have a different bandwidth (rate) when higher ISDN rate is used (col. 4 lines 31-42). As a result the radio channels 160 does not always have a constant rate 8 kps, the rate of it will vary depend on the ISDN rates being used. Thus, Gorsuch indeed teach of reformatting the useful data to a variable rate as claimed.

#### ***Allowable Subject Matter***

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6. Claims 19-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD  
DD

  
9/19/07  
WING CHAN  
SUPERVISORY PATENT EXAMINER